

Amendments to the Drawings under 37 C.F.R. 1.121(d)

There are no amendments to the drawings at this time.

Remarks/Arguments

Upon entry of this Amendment, claims 1, 8, 11-15, 17, 20, 25-26, 29-35, and 85-95, will be pending. Claims 27-28, 41-71, 82-84 have been withdrawn by the Examiner. Claims 16, 18, 19, 21-24, and 36-40 were cancelled in this second amendment without prejudice to or disclaimer of the subject matter therein. Claims 2-7, 9-10, 72-81 were cancelled without prejudice or disclaimer. Applicants reserve the right to prosecute the subject matter of the withdrawn and cancelled claims in a continuation, continuation-in-part or divisional application. Support for the amendments can be found throughout the specification, including the original claims, as filed, for example, the combination of a beta-emitter and a gamma-emitter on a non-biodegradable microparticle is found within the original claims and the specifically at para [0222] and [0083], non-radioactive core at [0105], covalent binding at [0091] and [0119], chelate attachment at [0062], dendritic linkage at [0123], terminal functional group at [0135], DOTA at [0167], PAMAM polymers [0139], pharmaceutical at [0202], and lyophilized at [0198].

Election of species

The Examiner is thanked for the search and examination effort. Applicants request rejoinder of claim 27-28 upon indication of allowable subject matter in the claim(s) from which they depend.

1. 35 USC 112

Applicants have clarified that there are two different radionuclides attached to the core. Accordingly, the Examiner is requested to withdraw this rejection.

2. 35 USC 112

Applicants have removed the term “further comprising” from the appropriate claims, and have corrected / removed the duplicates in claim 87 as requested. Accordingly, the Examiner is requested to withdraw this rejection.

3. 35 USC 103(a)

Applicants have significantly amended the claims to further define the invention over the art of record. Kobiyashi in view of Domb does not achieve the presently claimed invention, nor does the combination of Kobiyashi and Domb suggest the presently claimed invention, namely a

combination of beta and gamma emitters to achieve a combined imaging and therapeutic attached to a core. Further, neither the second 103 rejection (Kobiyashi in view of Domb further in view of Watson), nor the third 103 rejection (Kobiyashi in view of Domb further in view of Watson further in view of Danthi) achieves the presently claimed invention.

Further, even if all of these references were combined, the teaching would not teach each and every element of the claimed invention, in the proper assembly, as is required to sustain a Sec. 103 rejection. Rather, a combination of so many references may merely constitute a box of parts inviting someone to attempt any one of a multitude of non-enabled possibilities. Given the limitations now in the claims, applicants believe that the issue of obviousness no longer applies and request the Examiner to reconsider and withdraw the rejection. However, if the Examiner wishes to discuss this issue or make any suggestions, the undersigned attorney requests a call to expedite prosecution and so this application can move to allowance.

Conclusion

All of the stated grounds for objection and rejection have been properly traversed, accommodated or rendered moot. Applicants, therefore, respectfully request that the Examiner reconsider all presently outstanding rejections and objections and request that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,



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